

Arguments

Claims 6-9 were rejected under 35 USC 102(b) as being anticipated by Snow (4,363,841). It is the Examiner's position that Snow teaches each and every limitation of claims 6-9. The Examiner states that Snow discloses a laminated packaging material comprising an outermost layer of polyester or polypropylene, a metallic foil layer of aluminum and an innermost layer of a heat sealable polyolefin such as LLDPE. The Examiner further states that once the laminate material is formed, the containers may be folded and heat sealed. The Examiner has failed to give the process limitations of the claims any patentable weight, i.e. the limitations that the laminate layer is positioned adjacent to and partially adhered to the barrier layer and that the laminate is subsequently heat treated in an autoclave which applies moist heat at a pressure greater than atmospheric pressure so as to increase the adhesion of at least one of the base layer, barrier layer, and laminate layers together to form the laminate. The Examiner has also failed to give any patentable weight to the process limitations set forth in dependent claims 7-9. The Examiner states that if the product is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process and, in the present case, the

product produced by Snow is the same despite the process limitations of heat-treating with moist heat at a pressure greater than atmospheric pressure.

The Applicant disagrees with the Examiner's position. The laminate of the present invention, which is used for manufacturing a dimensionally stable and impermeable packaging container, differs from the laminate taught by Snow due in part to the two step process specifically recited in the claims. The first step requires partially adhering the layers together to form a laminate capable of being folded without imparting undesirable stresses to the laminar layers, particularly the barrier layer. The second step requires subjecting the folded laminate to a heat treating step to increase the adhesion between the layers and to impart mechanical rigidity to the container. This two step process produces a materially different laminate than that taught by Snow.

Furthermore, the claims, as now amended, further define over the laminate taught by Snow. Claim 6 has been amended to limit the number of possibilities for materials used in the base, barrier and laminate layer. Similar claim amendments have been made in the corresponding EP Application, which has been passed to issue. Specifically, claim 6 has been amended to limit the base layer to a material that uses a filler i.e. the

claim requires that the base layer is selected from the group consisting of filled polypropylene, filled polyethylene terephthalate, and filled amorphous polyethylene terephthalate. Snow does not show or even hint at the use of a filler for a base layer. Furthermore, Snow does not discuss autoclaving. By using a filler, the laminate can be autoclaved, due to the increased melting point. The packaging laminate, when transformed to a packaging container, can stand heat treatment at high temperature, high humidity and high pressure without being deformed or destroyed in any other way.

Accordingly, in view of arguments set forth above and the amendments to claim 6, it is Applicant's position that Snow fails to teach each and every limitation of claims 6-9. It is respectfully requested that the rejection of claims 6-9 under 35 USC 102(b) be withdrawn as Snow fails to anticipate these claims.

Conclusion

If the Examiner has any questions regarding this amendment and/or believes that a telephone interview would assist in the advancement of this case to allowance, she is invited to contact the undersigned Agent for Applicant.

Respectfully submitted,

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